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OFFICE OF PETITIONS

In re Application of :
William Scott Spangler : DECISION ON PETITION TO
Application No. 09/669,680 : WITHDRAW HOLDING OF
Filed: 09/26/2000 : ABANDONMENT
Attorney Docket No. ARC9-2000- :
0079US1 :

This is a decision on the petition to withdraw the holding of abandonment in the above-identified application, filed on 1 November, 2006.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on 26 July, 2005. Notice of Abandonment was mailed on 13 October, 2005.

Petitioner asserts that a response to the Notice was timely filed on 24 August, 2005. In support, petitioner has supplied a copy of an amendment. The amendment contains a Certificate Under 37 CFR 1.8 dated 24 August, 2005, signed by petitioner's counsel Frederick W. Gibb. Petitioner has also supplied a copy of the USPTO's Auto-Reply Facsimile Transmission showing 11 pages, including the first page of the reply, were received at the USPTO on 24 August, 2005.

Any petition to withdraw the holding of abandonment based on a Certificate of Transmission by facsimile must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting on personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission (see 37 CFR 1.8 and MPEP 512).

As petitioner has provided convincing evidence that a reply to the Notice mailed on 26 July, 2005, was transmitted to the USPTO on 24 August, 2005, the showing of record is that a response was timely filed, and there is no abandonment in fact.

The application is being referred to Technology Center Art Unit 2178 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
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